

Remarks

In the office action, the disclosure was objected to for informalities. Claims 1, 2, 4, and 6 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2003/0124254 to McCoy et al. ("McCoy et al.") in view of U.S. Patent No. 4,810,540 to Ellison et al. ("Ellison et al."). Claim 3 was rejected under U.S.C. § 103(a) as being obvious over McCoy et al. in view of Ellison et al. and further in view of U.S. Patent No. 6,680,104 to Boris et al. ("Boris et al."). Finally, claims 5 and 7-9 were rejected under 35 U.S.C. § 103(a) as being obvious over McCoy et al. in view of Ellison et al. and further in view of U.S. Patent No. 6,132,864 to Kiriazis et al. ("Kiriazis et al.").

In this response, Applicants have amended paragraph [0001] of the specification as suggested by the Examiner to correct a typographical error in the last response. In addition, Applicants have rewritten the subject matter of claim 2 in independent form and respectfully submit that the rejection of claim 2 in the previous office action was in error. Specifically, Applicants have added the feature of claim 1 to independent claim 1 and cancelled claim 2. Thus, the current scope of claim 1 is identical to previously rejected claim 2. Applicants have also amended claim 3 to change its dependency to claim 1.

The amendments were thus made to place the claims either in condition for allowance or in better form for appeal in accordance with MPEP § 714.12. Applicants request entry of the amendments and consideration of the arguments below.

Applicants respectfully submit that the rejection to claim 2 in the final office action was in error and respectfully request reconsideration of that rejection in view of the following remarks.

A. Objections to the Specification:

The disclosure was objected to for including a typographical error in the filing date for the priority document in paragraph [0001].

Applicants have amended paragraph [0001] to fix the error by changing "2004" to --2002--.

Applicants thank the Examiner for pointing out the error and respectfully request withdrawal of the objections to the specification.

B. Rejections under 35 U.S.C. § 103:

Claims 1, 2, 4, and 6 were rejected under 35 U.S.C. § 103(a) as being obvious over McCoy et al. in view of Ellison et al.

Applicants submit that the rejection of claim 2 in the previous office action was in error for the reasons stated below. Applicants have rewritten the subject matter of claim 2 in independent form to place the claims in condition for allowance. Specifically, Applicants have added the feature of claim 2 to independent claim 1, cancelled claim 2, and amended claim 3 to correct its dependency. Claim 1 now recites the identical subject matter as previously rejected claim 2.

Specifically, claim 1 recites a “process for producing a pigmented paint layer of a dry-paint film for application to a component” that includes the steps of:

applying a first layer to the support material having a first dry layer thickness of between 10 and 50 μm by at least one of knife coating, rolling, pouring or printing;
applying a second layer having a second dry layer thickness to the first layer by atomization, wherein the first dry layer thickness is greater than the second dry layer thickness by a factor of from 3 to 5; *and*
applying a transparent top layer to the second layer. (Emphasis added).

McCoy et al. describes a method and apparatus of making decorative sheet material. According to McCoy et al., a flexible carrier 13 is directed through a first coater 17, which applies a clear coat 34 to the carrier 13. The flexible carrier 13 is then directed to a second coater 18, which applies a color coat 35 on top of the clear coat. See, e.g. Fig. 1, and paragraphs [0019] and [0020]. Further pigmented coats an adhesive and a backing may be applied to color coat 35.

Ellison et al. describes a flexible decorative sheet material for use in surfacing automobile body panels having the appearance of a base coat/clear coat paint finish. As shown in Fig. 3, a clear coat film 23a is applied to a carrier 24 (which may be a steel band), after which a pigmented polymer is sprayed on from spray apparatus 25. If desired an adhesive layer 13 is applied to the pigmented layer. See, for example, column 5, lines 49-66.

Applicants submit that McCoy et al. and Ellison et al. differ fundamentally from the claimed invention, in that each describes a method in which a transparent top layer of the paint film is applied first to a temporary support material which is later removed to reveal the top clear layer. Furthermore, both references teach application of a pigmented layer to a transparent layer and not the other way around.

Thus, neither McCoy et al. not Ellison et al. teach or suggest the step of “applying a transparent top layer to the second layer.” On the contrary, both McCoy et al. and Ellison et al. describe applying a top transparent layer (clear coat 35 in McCoy et al.; clear film 11 in Ellison et al.) first, and applying a pigmented layer to the clear top layer. There is no suggestion in either reference for applying a top transparent layer onto a second layer, and particularly not onto a second layer which itself has been applied to a first layer by atomization.

Moreover, Applicants submit that the combination of Ellison et al. and McCoy et al. also fails to suggest first and second layers of a pigmented paint layer applied as recited in claim 1 (first layer by knife coating, rolling, pouring or printing – second layer by atomization) and having the recited thickness relationships.

Accordingly, withdrawal of the rejections to independent claim 1 and to dependent claims 4 and 6 is respectfully requested.

C. Rejections to Claims 3, 5, and 7-9 under 35 U.S.C. § 103:

Claim 3 was rejected under 35 U.S.C. § 103(a) as being obvious over McCoy et al. in view of Ellison et al. and further in view of Boris et al. and claims 5 and 7-9 were rejected under 35 U.S.C. § 103(a) as being obvious over McCoy et al. in view of Ellison et al. and further in view of Kiriazis et al.

Applicants respectfully submit that neither Boris et al. nor Kiriazis et al. cure the defects of McCoy et al. and Ellison et al. Specifically, neither Boris et al. nor Kiriazis et al. provide any suggestion for the feature of independent claim 1 discussed above: applying a transparent top layer to a second layer which has been applied by atomization to a first layer.

Withdrawal of the rejections to claims 3, 5, and 7-9 under 35 U.S.C. §103(a) is respectfully requested.

D. Interview Summary:

Applicants thank the Examiner for agreeing to a telephonic interview in this case, which took place on 19 January 2005. Participants to the interview were Applicants’ attorney Thomas P. Canty, Examiner David Turocy, and Supervisory Patent Examiner Shrive Beck. In the interview, US patent publication no. US 2003/01254 to McCoy et al. (“McCoy et al.”) was discussed.

Mr. Canty presented the argument that a prima facie case of obviousness had not been established because McCoy et al. did not provide a suggestion for the relationship between the thicknesses of the layers. Mr. Shrive admitted that McCoy et al. does not teach the specific relationship between the layer thicknesses, but asserted that prima facie obviousness is nevertheless established absent a showing of criticality by the Applicants.

No agreement regarding the rejections was reached.

CONCLUSION

For at least the reasons stated above, Applicant requests withdrawal of the rejections to the pending claims. It is respectfully submitted that the application is now in condition for allowance. Should the Examiner feel that an interview would advance prosecution of the present application, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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